IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 17TH DECEMBER 2007 / 26TH AGRAHAYANA 1929

Crl.MC.No. 3765 of 2007()

CC.173/2007 of JUDL.MAGISTRATE OF FIRST CLASS COURT, MATTANNUR
CRIME NO.14/07 OF ULIKKAL POLICE STATION

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PETITIONER: ACCUSED NO.5

JAISON J.ABRAHAM,
S/O.JOYKUTTY ABRAHAM,
18 YEARS,
AYIRANITHARA HOUSE,
ULIKKAL, KANNUR DISTRICT.

BY ADV. SRI.CIBI THOMAS

RESPONDENTS: COMPLAINANT & STATE

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1. SUB INSPECTOR OF POLICE,
ULIKKAL POLICE STATION.

2. STATE OF KERALA, REP. BY
THE PUBLIC PROSECUTOR ,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 17/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.3765 of 2007

Dated this the 17th day of December, 2007

O R D E R

The petitioner who claims to be a student is the 5th accused in a prosecution for offences punishable, inter alia, under Section 3 of the P.D.P.P Act. That is the only non bailable offence alleged against him, submits the learned counsel for the petitioner. The petitioner had never been arrested or enlarged on bail. Final report has already been submitted. Cognizance has been taken. The case has been registered as C.C.173 of 2007 before the J.F.C.M, Mattannur. Reckoning the petitioner as an absconding accused, a warrant of arrest has been issued against the petitioner by the learned Magistrate. The petitioner finds such warrant of arrest issued by the learned Magistrate chasing him.

2. According to the petitioner, he is absolutely innocent. His absence earlier was not wilful or deliberate. No notice, process or summons of the court was ever served on him. He is willing to surrender before the learned Magistrate and apply for bail. But he apprehends that his application for regular bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. It is therefore prayed that directions under Section 482 Cr.P.C may be issued in favour of the petitioner.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider such application on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police [**2003(1) KLT 339].

4. This Crl.M.C is, in these circumstances, dismissed, but with the specific observation that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously - on the date of surrender itself.

(R.BASANT, JUDGE)

rtr/-